

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FEDERICO CERETTI, CARLO GROSSO,
KINGATE GLOBAL FUND, LTD., KINGATE
EURO FUND, LTD., KINGATE
MANAGEMENT, LIMITED, FIM ADVISERS
LLP, FIM LIMITED, CITI HEDGE FUND
SERVICES LIMITED, FIRST PENINSULA
INDIVIDUALLY AND AS TRUSTEES OF THE
ASHBY TRUST, THE ASHBY TRUST, ASHBY
INVESTMENT SERVICES LIMITED
INDIVIDUALLY AND AS TRUSTEES OF THE
ASHBY TRUST, ALPINE TRUSTEES LIMITED
INDIVIDUALLY AND AS TRUSTEES OF THE
EL PRELA TRUST, PORT OF HERCULES LTD.
INDIVIDUALLY AND AS TRUSTEE OF THE
EL PRELA TRUST, EL PRELA TRUST, EL
PRELA GROUP HOLDING SERVICES, ASHBY
HOLDING SERVICES LIMITED, AND EL

Adv. Pro. No. 09-1161 (SMB)

PRELA TRADING INVESTMENTS LIMITED
AND HSBC BANK BERMUDA LIMITED,

Defendants.

**DECLARATION OF JODI KLEINICK
IN SUPPORT OF FIM DEFENDANTS' OPPOSITION TO
MOTION TO COMPEL**

JODI KLEINICK, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a member of Paul Hastings LLP, counsel to defendants FIM Limited, FIM Advisers LLP ("FIM Advisers"), Carlo Grosso ("Grosso") and Federico Ceretti ("Ceretti" and, collectively, the "FIM Defendants") in this action. I submit this declaration in support of the FIM Defendants' Opposition to the Trustee's Motion to Compel Defendants to Produce Documents and Participate in Discovery.

2. The documents produced by the FIM Defendants to Kingate Global Fund and Kingate Euro Fund (together, the "Kingate Funds") pursuant to order of the Bermuda court in connection with the action brought by the Kingate Funds against the FIM Defendants and others (the "Bermuda Action") have not been provided to counsel to the FIM Defendants in this action.

3. Annexed as Exhibit 1 is a true and correct copy of a letter sent from the Trustee to the FIM Defendants and the other non-Fund Defendants on February 10, 2016.

4. Annexed as Exhibit 2 is a true and correct copy of a letter sent on behalf of all of the Non-Fund Defendants to the Trustee on February 19, 2016. The Trustee did not respond to that letter, nor did he attempt to confer with the FIM Defendants after receiving that letter.

5. Effective as of May 1, 2000, FIM Limited was Consultant to KML with respect to the Kingate Funds pursuant to separate consulting services agreements (one for each Fund), both dated April 23, 2001 and both amended on June 7, 2001. There were no further amendments to these CSAs.

6. Effective August 1, 2005, pursuant to Deeds of Novation, FIM Advisers was engaged as Consultant to KML in place of FIM Limited with respect to both Funds, “releasing and discharging” FIM Limited of any further obligations under the CSAs and of all liability thereunder. The Deeds of Novation made clear that FIM Advisers would be named party to the CSAs for both Funds under the same terms as contained in the CSAs.

7. Annexed as Exhibit 3 is a true and correct copy of the Consulting Services Agreement of Kingate Global between KML and FIM Limited, effective May 1, 2000.

8. Annexed as Exhibit 4 is a true and correct copy of the Consulting Services Agreement of Kingate Euro between KML and FIM Limited, effective May 1, 2000.

9. Annexed as Exhibit 5 is a true and correct copy of the Amendment, dated June 7, 2001, to the Consulting Services Agreement of Kingate Global.

10. Annexed as Exhibit 6 is a true and correct copy of the Amendment, dated June 7, 2001, to the Consulting Services Agreement of Kingate Euro.

11. Annexed as Exhibit 7 is a true and correct copy of the Deed of Novation, dated July 29, 2005, relating to the assumption of obligations and benefits by FIM Advisers of the Consulting Services Agreement relating to Kingate Global.

12. Annexed as Exhibit 8 is a true and correct copy of the Deed of Novation, dated July 29, 2005, relating to the assumption of obligations and benefits by FIM Advisers of the Consulting Services Agreement relating to Kingate Euro.

13. In April and August 2009, the Trustee served FIM (USA), Inc. ("FIM (USA)"), a subsidiary of FIM Advisers with subpoenas pursuant to Rule 2004. FIM (USA) produced approximately 1 million pages of documents to the Trustee in response to those subpoenas.

Dated: New York, New York
May 20, 2016



JODI KLEINICK